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JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1969.

No. 462.

WILLIAM SCOTT, JR.,
Petitioner,

vs.

THE OHIO CITIZENS TRUST CO.,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF LUCAS COUNTY, OHIO.

REPLY BRIEF OF PETITIONER.

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Respondent's Brief herein raises arguments not reached in the Petition and under Rule 24 (4) of the rules of this Court, petitioner feels obliged to respond.

In its statement of the case, respondent refers to a certain case brought by petitioner herein in the United States District Court for the Northern District of Ohio, Western Division, which case concerns the issues at bar. It is petitioner's belief that the resolution of that case on jurisdictional grounds, rather than on the merits, makes it irrelevant to the issues herein.

That case was filed while the case at bar was pending. It was alleged that the statute was unconstitutional and the federal Court was asked to enjoin the state court from invoking the remedies of the Ohio statute.

After a three judge Court was empanelled, the case was dismissed on jurisdictional grounds, rather than on the merits. The Order of dismissal, which sets forth the reasons therefor, is appended hereto.

Respectfully submitted,

HARLAND M. BRITZ,
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Toledo, Ohio 43604,
Counsel for Petitioner.

APPENDIX.

Opinion and Order of the United States District Court for the Northern District of Ohio, Western Division, Case No. C - 68 - 65, Entitled "William Scott, Jr., v. John J. Connors, Jr., Judge, Court of Common Pleas of Lucas County, Ohio.

This cause came before the Court on plaintiff's complaint seeking an injunction restraining defendant, a Judge of the Court of Common Pleas of Lucas County, State of Ohio, from requiring plaintiff to answer certain interrogatories and further enjoining defendant from entering judgment or taking any other judicial action as a result of the plaintiff's failure to answer said interrogatories, and on defendant's motion to dismiss the complaint. This Court having been convened in accordance with Title 28, United States Code, sections 2281 and 2284, and having heard oral argument on May 9, 1968, finds that the suit has been prematurely brought and that there are adequate state appellate procedures for determination of the controversy in question, and further that the action is barred by Title 28, United States Code, section 2283 which forbids injunctions to stay proceedings in the state courts. *Letter Minerals, Inc. v. United States,* 352 U.S. 220 (1956); *Townsend v. Ohio,* 366 F.2d 33 (6th Cir. 1966). See also, *Dombrowski v. Pfister,* 380 U.S. 479, 484 (1965). It is therefore

ORDERED that plaintiff's prayer for an injunction be and the same is hereby denied and defendant's motion to dismiss be and the same is hereby sustained, and it is

FURTHER ORDERED that this cause be and the same is hereby dismissed.

PAUL C. WEICK, *Chief Judge,*
Sixth Circuit Court of Appeals,

DON J. YOUNG,
District Judge,

FRANK L. KLOEB,
Senior District Judge.

Toledo, Ohio, June 10, 1968.